



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: April 23, 2004 REPORT NO. 04-085

ATTENTION: Public Safety and Neighborhood Services Committee
Docket of April 28, 2004

SUBJECT: Proposed Ordinance Regulating the Sales of Vehicles in the Public
Right-of-Way

REFERENCE: None

SUMMARY

Issues

1. Should the City Council prohibit the sales of vehicles in certain areas within the public right-of-way?
2. Should the Governmental Relations Department pursue legislation that allows the issuance of citations to vehicles that display "For Sale" signs in areas prohibiting such action?

Manager's Recommendations –

1. Approve the prohibition of sales of vehicles in certain areas within the public right-of-way.
2. Pursue legislation to issue citations to vehicles who display "For Sale" signs in areas prohibiting such action. The Rules Committee authorized this action for the City's 2004 Legislative Program.

Other Recommendations – None

Fiscal Impact – This action requires the installation of signs at the locations on attachment #4 at an initial cost of \$65,900 and modifications to the existing parking ticket tracking system at a cost of \$2,500. A funding source has not been identified. If the Council adopts this action, this item will be referred to the FY05 Unfunded Need List.

BACKGROUND

For the last several years, a number of residents from various communities throughout San Diego have expressed concerns about specific streets in their neighborhoods that have become used car sales areas. Oftentimes where the activity occurs are main entrance streets to the community that have high traffic volume and visibility. The Transportation Department's Parking Management Division and the Police Department's Abandoned Vehicle Abatement (AVA) Unit enforce the 72-hour parking violation ordinance in order to keep these "parked until they are sold" cars moving. However, this ordinance is only effective for vehicles parked in the exact same location for over 72 hours. Some of these linear sales have become so popular that on the weekends the owners remain with the vehicles where interest and sales conversations are taking place. The residents driving the streets experience traffic congestion and have concerns about traffic safety for pedestrians and motorists alike.

According to the Department of Motor Vehicles, as staffing allows, they currently take enforcement action against unpermitted "dealers" as outlined in California Vehicle Code Section 11700. These enforcement actions are effective against prospective sellers who bring their cars to known car sales areas and then negotiate with an unauthorized street "dealer" to sell their vehicles. This Vehicle Code section would not, however, address the conditions where prospective sellers simply bring their own vehicles to known sales areas, park them there for display purposes, and then return less than 72 hours later to move their car. The actual sales transaction may not take place until later, and not on the street. According to residents, the "for sale" cars take valuable parking spaces, cause congestion, and bring safety hazards associated with people stopping in the street to window shop.

The City of San Diego had adopted an ordinance, City Municipal Code Section 86.23(a) that regulated the size and type of signs that could be used on vehicles for private sale (Attachment #1). The ordinance is seldom enforced and has not been effective for deterring the type of activity described at the above locations. In addition, a court challenge disclosed that such an ordinance was not consistent with state and federal laws. Subsequently, the City Council amended this section to comply with the court decision.

On March 26, 2003, the Public Safety and Neighborhood Services Committee directed staff to:

1. Draft an Ordinance that would designate certain streets as being off limits for car sales.
2. Get input on the draft ordinance from the Community Planners Committee (CPC) and other interested community stakeholders.
3. Compile a list of the designated off-limit streets for Committee consideration.

4. Request that the Governmental Relations Department pursue legislation changing State law to allow City regulation of “For Sale” signs on parked vehicles.

DISCUSSION

The Neighborhood Code Compliance Department held several meetings with residents from 12 different neighborhoods, staff representatives from the Neighborhood Code Compliance Department, Parking Management Division and the AVA Unit. The represented communities were: Carmel Mountain Ranch, City Heights, Clairemont, Linda Vista, Navajo, Pacific Beach, Rancho Bernardo, Rolando, Rolando Park, Serra Mesa, Tierrasanta, and University Heights. The group met over a period of seven months. After months of discussion with residents, it became apparent that finding a solution to the issue of on-street car sales that fit every community, and did not impact already limited parking, would be very difficult.

Community Planners Committee (CPC)

On May 27, 2003 staff attended the Community Planners Committee (CPC) and presented a draft ordinance designed to prohibit sales of vehicles at specific locations. Staff solicited comments from the CPC as well as a list of locations where the parking restrictions should apply.

The comments at the CPC acknowledged that such activity is undesirable within our communities, and in general supported the concept that some sort of action should be taken. The CPC directed that the individual community planning groups submit locations to be taken into consideration directly to Neighborhood Code Compliance. Attachment #4 lists the locations that were compiled during this process.

Changes to the California Vehicle Code

The Public Safety and Neighborhood Services Committee also requested that staff, through the Governmental Relations Department (GR), consider proposing changes to the CVC regarding the sale of vehicles in the public right-of-way. On January 13, 2004, Council adopted the City’s 2004 legislative priorities authorizing GR to pursue changes to the CVC that would allow the issuance of citations to vehicles that display “For Sale” signs in areas prohibiting such activity. Staff will support GR regarding legislative action at the State level.

Proposed Ordinance

Currently, any ordinance that is enacted for the purpose of controlling this type of activity must be based on the California Vehicle Code (CVC). The only section in the CVC that regulates this type of activity is CVC Section 22651.9 (Attachment #2).

This section specifically describes the process for establishment of these regulations and the methods for enforcement.

The Ordinance that staff has proposed adheres to CVC Section 22651.9 and it can be legally enforced following the processes outlined in that CVC Section. Staff believes that CVC Section 22651.9 is viable; however it is cumbersome for enforcement. The following will be our procedures to prohibit vehicles for sale activity:

- a) An Ordinance will designate the streets that have a prohibition for vehicle sales;
- b) Signs will be posted on the designated streets prohibiting sales of vehicles;
- c) Violators will be given a warning, and a list of other designated streets where the vehicle cannot be parked for sale;
- d) If the vehicle is found in violation within 30 days after the notice, but not less than 24 hours, the vehicle will be impounded.

This is the most expeditious response to the problem under the current CVC.

The advantage of our proposed ordinance is that it targets problem areas without affecting other areas. There are however, some disadvantages. It may cause the problem to be shifted to adjacent streets or neighborhoods. In addition, a database, available 24 hours a day, must be established to track vehicles that are warned. This is a criteria established by the vehicle code prior to the vehicle being impounded. The warning must include a list of all streets where there is parking prohibition for sale of vehicles. It requires extensive signage at each location. Enforcement must be targeted for specific locations and because this is primarily a weekend problem, enforcement would require the resources of the Police Department. In addition, when new locations have been identified, an ordinance will have to be approved by the City Council and signage will be required before enforcement can occur. The warnings will also have to be updated to include the addition of new prohibited streets.

SUMMARY

Staff was directed by the Public Safety and Neighborhood Services Committee to draft an ordinance that would designate certain streets as being off limits for car sales and to seek legislative changes regarding the sale of vehicles. Input was received from the Community Planners Committee, community planning groups, Community Service Centers, and the Police Department. Governmental Relations will pursue legislative action at the State level in order to facilitate local enforcement of this type of vehicle for sale activity on the public right of way. Attached to this report is a draft ordinance which is based in the current state law (Attachment #3). It contains a list of the selected streets for prohibition of vehicles for sale within the public right-of-way. (Attachment #4).

ALTERNATIVES

1. Create a citywide ordinance that would prohibit the sale of vehicles within the public right-of-way.

2. Residents to continue to work with staff from the Transportation Engineering Division to implement solutions that work for their respective communities on a case-by-case basis. Several examples of possible actions are:
 - a) Red curb designations to prohibit parking for all vehicles on popular streets;
 - b) Installation of time limit parking;
 - c) Installation of parking meters;
 - d) Create a Residential Parking Permit District in combination with time limit parking.
3. Continue responding to this issue with currently available remedies on a case by case basis until the CVC has been modified to allow the issuance of citations for such actions.

Respectfully submitted,

Approved by,

Frank Belock, Director
Engineering and Capital Projects

George I. Loveland
Assistant City Manager

LOVELAND/FB/DVW

- Attachments:
1. [Municipal Code Section 86.23 \(Revised May 26, 2003\)](#)
 2. [California Vehicle Code Section 22651.9](#)
 3. [Proposed Ordinance](#)
 4. [List of streets selected for prohibition of vehicle sales](#)